

# State of Colorado



Bill Owens  
Governor

Stacy L. Worthington  
Board Director

## DPA

Department of Personnel  
& Administration

State Personnel Board

The Chancery  
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### AGENDA PUBLIC BOARD MEETING March 18, 2003

A public meeting of the State Personnel Board will be held on Tuesday, March 18, 2003, at the Colorado Department of Transportation, 4201 East Arkansas Avenue, Second Floor Auditorium, Denver, Colorado 80222. The public meeting will commence at 9:00 a.m.

Reasonable accommodation will be provided **upon request** for persons with disabilities. If you are a person with a disability who requires an accommodation to participate in this meeting, please notify Board staff at 303-894-2136 by March 13, 2003.

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#### I. REQUESTS FOR RESIDENCY WAIVERS

- A. March 1, 2003 Report on Residency Waivers

Reports are informational only; no action is required.

#### II. PENDING MATTERS

- A. Outstanding Motions

1. Harlen Ainscough v. Department of Public Health and Environment, State Personnel Board case number 2003G032.

On January 3, 2003, a Preliminary Recommendation of the Administrative Law Judge was issued recommending that a hearing be denied. On January 29, 2003, the Board issued an Order of the State Personnel Board Denying Petition for Hearing. On February 10, 2003, Complainant filed a Motion for Reconsideration. Respondent's Response to Complainant's Motion for Reconsideration was filed on February 21, 2003.

#### III. REVIEW OF INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR ON APPEAL TO THE STATE PERSONNEL BOARD

- A. Carolyn Dunn v. Department of Transportation, State Personnel Board case number 2003G036.

On October 28, 2002, an Order Denying Motion to Strike and Dismissing Complainant's Petition for Hearing was issued. Complainant's Opening Brief was filed on February 6, 2003. Respondent's Answer Brief was filed on February 18, 2003. Complainant's Reply Brief was filed on March 4, 2003.

**IV. REVIEW OF PRELIMINARY RECOMMENDATIONS OF ADMINISTRATIVE LAW JUDGES OR THE DIRECTOR TO GRANT OR DENY PETITIONS FOR HEARING**

- A. Steen J. McCrea v. Department of Transportation, State Personnel Board case number 2003G054.

Complainant petitions the State Personnel Board to grant a discretionary, evidentiary hearing to review his non-selection for a Contract Specialist (General Professional III) position at the Colorado Department of Transportation. On February 28, 2003, a Preliminary Recommendation of the Director was issued, recommending that a hearing be denied.

**V. INITIAL DECISIONS OR OTHER FINAL ORDERS OF THE ADMINISTRATIVE LAW JUDGES**

- A. Jimmy A. Ortiz v. Department of Revenue, Motor Vehicle Division, Drivers License Section, State Personnel Board case number 2003B054.

On February 11, 2003, the Initial Decision of the Administrative Law Judge was issued. The ALJ found that Respondent's disciplinary reduction in pay of Complainant was not arbitrary, capricious or contrary to rule or law. The ALJ ordered that Respondent's action is affirmed and Complainant's appeal is dismissed with prejudice.

**VI. REVIEW OF THE MINUTES FROM THE FEBRUARY 18, 2003 PUBLIC MEETING OF THE STATE PERSONNEL BOARD**

**VII. ACKNOWLEDGMENTS**

**DECISIONS OF THE STATE PERSONNEL BOARD MADE AT ITS FEBRUARY 18, 2003 PUBLIC MEETING:**

- A. Department of Natural Resources Retention Area Request

The Board voted to grant the request of the Department of Natural Resources to limit retention areas as follows: laid off or displaced employees may bump to any vacant position in the Department for which the employee qualifies, but bumping of occupied positions in divisions is limited to the following major organizational units: Executive Director's Office, Division of Wildlife, Division of Parks and Outdoor Recreation, Division of Water Resources, Colorado Water Conservation Board, State Board of Land Commissioners, Colorado Oil and Gas Conservation Commission, Division of Minerals and Geology, and Division of Forestry.

- B. Hubert Barton v. Department of Public Safety, Colorado State Patrol, State Personnel Board case number 2002B084.

The Board voted: (1) to grant Complainant's request for the return of exhibits but only after dismissal and time for appeal has passed and the parties have filed a joint motion requesting return of exhibits; and (2) to deny Complainant's request to seal the record.

- C. David Dumler v. The Board of Governors of the Colorado State University System, State Personnel Board case number 2003G044.

The Board voted to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing.

- D. Manuel Sanchez v. Department of Human Services, State Personnel Board case number 2003G063.

The Board voted to adopt the Preliminary Recommendation of the Director and deny the petition for hearing.

## **VIII. REPORT OF THE STATE PERSONNEL DIRECTOR**

### **IX. ADMINISTRATIVE MATTERS & COMMENTS**

#### **A. ADMINISTRATIVE MATTERS**

- Budget Report and Revenue and Expense Report
- Cases Scheduled for Preliminary Review
- Cases on Appeal to the Board and to Appellate Courts
- Order Affirmed in Bellos v. Department of Regulatory Agencies, State Personnel Board Case No. 2000G094, Court of Appeals No. 02CA0183
- Proposed Procedures for Personnel Director's Rulemaking on February 26, 2003
- Summons and Verified Complaint and Jury Demand regarding Lowell O. Ferrel v. Department of Corrections, State Personnel Board Case No. 2000B092, Court of Appeal No. 00CA1315, Logan County District Court Case No. 03C
- House Bill 03-1316 Concerning Modifications to the Compensation Process for State Employees

#### **B. GENERAL COMMENTS FROM ATTORNEYS, EMPLOYEE ORGANIZATIONS, PERSONNEL ADMINISTRATORS, AND THE PUBLIC**

### **X. EXECUTIVE SESSION**

- A. Case Status Report
- B. Minutes of the February 2003 Executive Session

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#### **NEXT REGULARLY SCHEDULED BOARD MEETINGS**

9:00 a.m.

<u>Date</u>	<u>Location</u>
April 15, 2003	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
May 20, 2003	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
June 17, 2003	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222
July 15, 2003	Colorado Department of Transportation 4201 East Arkansas Ave., Second Floor Auditorium Denver, CO 80222